IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8078 of 1993

For Approval and Signature:

HON'BLE MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

PIR MOHMAD ABDULBHAI VOHRA

Versus

MP UDYOG

Appearance:

1. Special Civil Application No. 8078 of 1993

MR A.K.MAVLANKAR with MR GIRISH PATEL for Petitioners

MR VAISHNAV with MR KV GADHIA for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE H.K.RATHOD

Date of decision: 27/08/2003

ORAL JUDGEMENT

Heard learned advocate Mr. A.K.Mavlankar for the petitioners and learned advocate Mr. Vaishnav appearing

on behalf of the respondent.

2. In the present petition, the petitioner workman has challenged the award passed by the Labour Court, Ahmedabad in Reference No. 1299 of 1984 dated 25.1.1993 wherein the reference of the present petitioners has been rejected by the Labour Court.

3. Rule has been issued by this Court on 13.8.1993. Learned advocate Mr. A.K.Mavlankar has read before this Court grounds C to H and pointed out that the Labour Court has committed gross error in not considering the contention raised in grounds C to H. He also submitted that Labour Court has not considered the category of the petitioner, balance sheet, muster roll of the respondent and other relevant documents. Production in fact was not reduced with the respondents even though Labour Court has come to the contrary conclusion and therefore, he submitted that Labour Court has committed gross error in coming to the conclusion that retrenchment order has been rightly passed by the respondent while complying with Section 25(f) of the Industrial Disputes Act. There is no breach of Section 25(H) committed by the respondent, and therefore, according to him when Labour Court has committed serious error while rejecting the reference, interference by this Court is necessary.

4. Learned advocate Mr. Vaishnav appearing on behalf of the respondent has submitted that Labour Court has considered each and every aspect of the matter including oral and documentary evidence and rightly come to the conclusion that while retrenching the petitioners last come first go principle has been observed and retrenchment compensation has also been sent to the petitioners which was not accepted by the petitioners and ultimately relying on that evidence Labour Court has come to the conclusion that services of the petitioners have been rightly terminated and, for that, respondents have not committed any error. Therefore, Mr. Vaishnav has submitted that these are all finding of facts based on appreciation of oral as well as documentary evidence. This Court having very limited jurisdiction and cannot reappreciate the same and this court cannot act as an appellate authority while exercising the powers under Article 227 of the Constitution of India. Therefore, according to him, there is no substance in the present petition and the same may be dismissed.

5. I have considered the submissions made by both the learned advocates and I have perused the grounds which have been raised by Mr. Mavlankar before this

Court. I have also perused the award passed by the Labour Court. The Labour Court has discussed the entire evidence in paragraphs 7 to 12. The Labour Court has considered oral and documentary evidence and ultimately come to the conclusion that at the time of retrenching the petitioner Section 25(f) has been rightly followed by the respondent. Retrenchment compensation was sent by post through money order which was refused by the petitioner. There was no new recruitment looking to the muster roll of the respondent, that is how, Section 25(H) has not been followed by the respondent. The production has been reduced which has been considered by the Labour Court while considering the electricity bill and unit which has been consumed and ultimately Labour court has come to the conclusion that production of the respondent has been reduced. In respect to the balance sheet, the Labour Court has considered that Senior Factory Inspector has visited the respondent and endorsement has been made to the effect that in fact how many workers were working with the contractor and how many workers were working with the respondent. Ultimately, Labour Court has appreciated the entire evidence, oral and documentary and come to the conclusion that the challenge of the petitioner against the termination order which has ultimately, found by the Labour Court being legal and valid and, there is no breach of Section 25(f) of the Act. This being a finding of fact based on oral and documentary evidence, this Court cannot reappreciate again which has already been appreciated by the Labour Court while exercising power under Article 227 of the Constitution of India. This Court cannot act as an appellate authority against the award passed by the Labour Court. The Labour court has not committed any error. There is no procedural irregularity committed by the Labour Court. The finding given by the Labour Court is not baseless and perverse which require any interference by this Court while exercising powers under Article 227 of the Constitution of India. Hence, according to my opinion, there is no substance in the present petition and therefore, present petition is dismissed with no order as to costs. Rule is discharged.

(H.K.Rathod,J)

Jayanti*